

REMARKS

Applicants respectfully request reconsideration of the present Application in light of the above amendments and the following remarks. Claims 1, 9, 17, 19, and 49 have been amended herein, support for which can be found in the Specification at ¶¶ 0022, 0027, and 0028. Additionally, claims 13 and 61 have been canceled herein. No new matter has been introduced by virtue of these amendments.

Interview Summary

Applicants would like to thank Examiner Reza for taking the time to discuss the current application in a telephonic interview on March 3, 2008. During the interview, Applicant's representatives discussed the differences between the references cited in the Office Action and the claims as they existed. Applicant's representatives pointed out that neither of the cited references – Bathrick (U.S. 5,010,572) and Marino (U.S. 5,530,758) – taught or suggested determinative steps for identifying two or more protocols supported by two or more computers. Applicant's representatives proposed a number of claim amendments to capture embodiments of the invention directed to identifying multiple protocols supported by both an internal and external node and automatically selecting one of the identified protocols to establish a communicative connection between the nodes.

Rejections based on 35 U.S.C. § 103

Claims 1-32 and 49-62 were rejected under 35 U.S.C. § 103(a) for allegedly being obvious in light of U.S. Patent Number 5,010,572 to Bathrick et al. (hereinafter referred to as “Bathrick”) in view of U.S. Patent Number 5,530,758 to Marino, Jr., et al. (hereinafter referred to as “Marino”). To establish a *prima facie* case of obviousness, the prior-art references “must teach or suggest all the claim limitations.” MPEP § 2143. Also, if an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *See* MPEP § 2143.03 (citation omitted). Applicant respectfully asserts that the amendments herein overcome the cited references for at least the following reasons.

Independent claim 1, as amended herein, recites a method for automatically negotiating a security protocol. The method comprises, in part, “determining that the first node

and the second node contain **two or more protocols in common.**” (emphasis added) It is respectfully submitted that neither Bathrick nor Marion teach or suggest the same.

Bathrick describes a networked system of computers (nodes) that are configured to transfer data between one another. The nodes described in Bathrick are configured to receive a “protocol data unit,” which includes the address of an end device and “a security call protocol [not two or more] identification or specification” for transmitting information to the end device. *Bathrick*, col. 3, lines 18–21 (emphases added); *see also Bathrick*, col. 1, line 53–col. 2, line 16; col. 4, lines 37–40. Bathrick discusses comparing a data unit’s address and single protocol with other stored addresses and protocols in order to find a match. *See Bathrick*, col. 1, lines 52–59; col. 4, lines 26–40. Comparison of one protocol with other stored protocols would either produce one protocol in common between two data units or no protocols in common with other data units. Claim 1, however, recites determining whether different protocol sets have “two or more protocols in common.”

Marino also fails to describe the aforementioned feature. Marino describes transferring data between multiple nodes by exchanging security certificates between the kernels of different nodes. *See Marino*, col. 3, lines 40–55. These security certificates are used along with network address information to establish a connection between the kernels of disparate nodes. *See Marino*, col. 6, lines 7–24. Marino does not, however, disclose comparing protocol sets or determining that different nodes support two or more protocols.

Additionally, claim 1, as amended herein, recites “determining a selected protocol from the two or more protocols in common; and automatically establishing a secure connection between the external node and the internal node based on the selected protocol.” At best, Bathrick describes receiving a protocol data unit and comparing the address of the end-system identified in the data unit with the addresses and security keys of end-systems stored in an accessible memory store. *See Bathrick*, col. 3, lines 29–37. If the data unit’s address matches a stored address, a protocol processor “applies the appropriate data unit to the data unit.” *Bathrick*, col. 3, lines 34–37. Yet, Bathrick never teaches or suggests selecting a protocol from two or more protocols that were determined to be supported by two different nodes, as recited in amended claim 1. Further, Marino fails to cure this deficiency and also falls short of determining “a selected protocol” from two or more protocols supported by different nodes.

Therefore, the combination of Bathrick and Marino fails to teach or suggest the all of the limitations of claim 1, as amended herein. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejection of claim 1.

Dependent claim 9, which depends from independent claim 1, contains the same limitations as claim 1 and is not obvious in light of Bathrick and Marino for at least the above reasons. In addition, claim 9, as amended herein recites “wherein the selected protocol is determined based on at least one of a set of criteria, the set of criteria comprising a **transfer speed** and a **bit depth of keys**.” It is respectfully submitted that neither Bathrick nor Marino teach or suggest selecting a protocol based on either of these conditions.

Independent claim 17 recites a system for automatically negotiating a security protocol, comprising, in part, a negotiation engine configured for “a negotiation engine . . . configured for . . . determining that the first protocol set and the second protocol set contain **two or more protocols in common**.” (emphasis added). Also, the negotiation engine recited in claim 17 (as amended herein) is further configured for “**determining a selected protocol** from the two or more protocols in common, and automatically establishing a secure connection between the external node and the internal node based on the selected protocol.” (emphasis added). These features are similar to the features previously discuss above with reference to claim 1 and are allowable over Bathrick and Marino for at least the above reasons.

Independent claim 49 recites one or more tangible computer-readable media having computer-executable instructions being configured to execute a method for automatically negotiating a security protocol. The method comprises the following features, which are similar to the previously discussed features in claim 1.

- determining that the first protocol set and the second protocol set contain **two or more protocols in common**;
- determining **a selected protocol** from the two or more protocols in common; and
- automatically establishing a secure connection between the external node and the internal node **based on the selected protocol**. (emphasis added).

As previously stated, the combination of Bathrick and Marino does not teach or suggest the above features. Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejection of claim 49, as amended herein.

Furthermore, “[i]f an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03 (citation omitted). As previously mentioned, the combination of Bathick and Marino fails to teach or suggest all of the features recited in independent claims 1, 17, and 49. Therefore, Applicant respectfully submits that dependent claims 2-12, 14-16, 18-32, 50-60, and 62 are nonobvious based, at least, on their dependency from one of claims 1, 17, or 49.

CONCLUSION

Upon entry of the above amendments, claims 1-12, 14-32, 49-60, and 62 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or phoeller@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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